

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 536 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

B T GOSWAMI

Versus

STATE OF GUJARAT

Appearance:

MR DM THAKKAR for Petitioner
MR PR JOSHI for Respondent No. 1
MR SK PATEL for Respondent No. 2
None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/09/2000

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. It is not in dispute that during the pendency of this
Special Civil Application the petitioner has been

promoted to the post of Section Officer, Class-II. The day on which this petition has been filed the petitioner was not reverted to the lower post from the post of Section Officer, Class-II on which he was promoted on adhoc basis. Only on the apprehension this petition has been filed. However, it is not in dispute that during the pendency of Special Civil Application under order dated 5.2.88 the petitioner was reverted to the post of Assistant.

#. The rules for the recruitment to the post of Section Officer, Class-II are placed by Mr.S.K.Patel, AGP, learned counsel for the respondent No.2 and therefrom I find that the criteria for promotion to the post aforesaid is proved merit and efficiency. The petitioner has failed to produce any order of his promotion on the post of Section Officer, Class-II after his suitability for promotion had been adjudged by the Departmental Promotion Commission or Selection Committee as the case may be on the criteria of proved merit and efficiency. The order of the promotion is on the record and therefrom I find that it was purely an adhoc promotion. On the availability of a direct recruits for the post of Section Officer, Class-II naturally the persons, who are holding the post on adhoc basic out of which one has to be reverted to make the place for him. The petitioner has been reverted as he was junior most person holding the post on adhoc basis on the day. It is the case of the petitioner that he was senior to the persons i.e. respondent Nos. 3 and 4 in the cadre of Assistant and they were retained on the promotion post, he has been reverted and this action of the respondent is violative of Article 14 and 16 of the Constitution of India. But this contention of the learned counsel for the petitioner is wholly misconceived for the reason that at page No.38 of the petition I find the final seniority list and there from I find that the petitioner's name is at Sr. No.44 whereas the respondent Nos. 3 and 4 are there at Sr. No.39 and 42. This final senior list has not been challenged by the petitioner. Meaning thereby he has accepted his position at Sr. 44. Then Shri Thakkar made another contention that these persons were not eligible for promotion on the day on which the petitioner was promoted on adhoc basis. Even if it is taken to be correct it is hardly of any help to the petitioner for the reason that the day on which reversion of the petitioner ordered these persons were eligible for promotion. This petition is wholly misconceived and the same is dismissed. Rule is discharged. Interim relief granted earlier stands vacated. The petitioner is directed to pay Rs.1,000/= each to the respondents Nos.

1 and 2.

(S.K.Keshote, J.)

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